

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TRISTRATA TECHNOLOGY, INC.)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 06-644(JJF)
)	
LOUISE BIANCO SKIN CARE, INC.,)	
MEDICAL SKIN THERAPY RESEARCH,)	
INC., REVISION SKIN CARE, INC. and Z)	
COSMETICA USA, LLC.)	
)	
Defendants.)	

**PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT
AND INCORPORATED MEMORANDUM OF LAW**

Plaintiff Tristrata Technology, Inc. (“TTI”), by and through its counsel, respectfully moves this Court for a default judgment against Defendant Medical Skin Therapy Research, Inc. (“MSTRI”), pursuant to Federal Rule of Civil Procedure 55.

MOTION FOR DEFAULT JUDGMENT

1. On October 17, 2006, Plaintiff filed its Complaint against Defendant MSTRI.
2. On February 21, 2007, TTI served MSTRI pursuant to 10 Del. C. § 3104 – by serving, the Secretary of State pursuant to 10 Del. C. § 3104, filed the executed return of service with the Court, and caused a copy of the Complaint, the summons for MSTRI, and a letter addressed to MSTRI, to be forwarded to MSTRI via registered mail return receipt requested. A copy of the letter and registered mail receipt are attached hereto as Exhibit A. A copy of the confirmation and tracking form received from the United States Postal Service is attached hereto as Exhibit B.

3. On April 2, 2007, Arthur G. Connolly, III on behalf of TTI, filed an Affidavit of Mailing pursuant to 10 Del. C. § 3104 and D. Del. LR 4.1(b), in which the details of service are described. A copy of the Affidavit is attached hereto as Exhibit C.

4. MSTRI was required under Fed. R. Civ. P. 12(a)(1)(A) to file an answer to the Complaint within twenty (20) days of service or by no later than April 23, 2007.

5. To date, MSTRI has not answered or otherwise responded to the Complaint nor has an appearance been entered on MSTRI's behalf.

WHEREFORE, Plaintiff respectfully requests that the Court:

A. Enter a default judgment against MSTRI pursuant to Fed. R. Civ. P. 55 on all counts of the Complaint;

B. Grant Plaintiff a period of time for discovery to determine the amount of damages;

C. Grant Plaintiff attorney's fees and costs;

D. Schedule a hearing to determine the amount of damages, including attorney's fees and costs; and

E. Award to Plaintiffs such other and additional relief as this Court deems just and proper.

INCORPORATED MEMORANDUM OF LAW

As noted in the Exhibits attached hereto, MSTRI was served with the summons and Complaint on February 21, 2007. To date, MSTRI has not answered the Complaint nor entered an appearance in this action. Because MSTRI's answer was due on or before April 23, 2007, it is clear that MSTRI is in default and judgment should be entered against it.

Plaintiff thus respectfully requests that this Court enter a default judgment against MSTRI in the manner set forth above.

Dated: May 2, 2008

Respectfully submitted,

/s/ Arthur G. Connolly, III

Arthur G. Connolly, III (#2667)
CONNOLLY BOVE LODGE & HUTZ LLP
The Nemours Building
1007 N. Orange Street
P.O. Box 2207
Wilmington, DE 19899
(302) 658-9141

Of Counsel:
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PERKINS COIE
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Kevin M. McGovern
Brian T. Foley
McGOVERN & ASSOCIATES
545 Madison Avenue, 15th Floor
New York, New York 10022
(212) 688-9840

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 2, 2008, the foregoing document was served via First-Class U.S. Mail and CM/ECF on the following counsel of record:

Louise Bianco, President Louise Bianco Skin Care, Inc. 13655 Chandler Boulevard Sherman Oaks, CA 91401	
Brenda Purdy, President Medical Skin Therapy Research Inc. P.O. Box 231268 Encinitas, CA 92023	
John Muller, President Revision Skincare Inc. 9019 Premier Row Dallas, TX 75247	TEPLEN & ASSOCIATES, PLLC Philip H. Teplen, Esq. Empire State Building 350 Fifth Avenue, 57 th Floor New York, NY 10118
Philip Zellner Z Cosmetics USA, LLC 1650 New Highway Farmingdale, NY 11735	

/s/Arthur G. Connolly, III
Arthur G. Connolly, III (#2667)

EXHIBIT A



CONNOLLY BOVE LODGE & HUTZ LLP

ATTORNEYS AT LAW

WILMINGTON, DE

Arthur G. Connolly, III
Partner

DIRECT DIAL: (302) 888 6318
DIRECT FAX: (302) 658 0380
EMAIL: AConnollyIII@cblh.com
REPLY TO: Wilmington Office

The Nemours Building
1007 North Orange St.
P.O. Box 2207
Wilmington, DE 19899
TEL: (302) 658 9141
FAX: (302) 658 5614
WEB: www.cblh.com

February 21, 2007

REGISTERED MAIL
RETURN RECEIPT REQUESTED

Brenda Purdy, President
Medical Skin Therapy Research Inc.
1260 Avenida Chelsea
Vista, CA 92081

Re: *Tristrata Technology, Inc. v. Louise Bianco Skin Care, Inc., et al.*, C.A. No. 06-644

Dear Madam:

Please find enclosed copies of the Summons and Return of Service and the Complaint and Jury Demand for the above-referenced case. The Summons and Complaint were served upon the Delaware Secretary of State on February 13, 2007. Pursuant to 10 Del. C. § 3104, such service is as effective for all intents and purposes as if it had been made upon you personally within the State of Delaware.

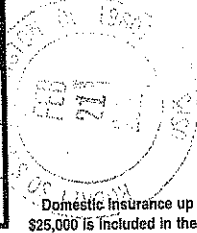
Sincerely,

Arthur G. Connolly, III

Enclosures

#522962_1

EXHIBIT A

Registered No.		RB972 2322104 US		Date Stamp
To Be Completed By Post Office	Reg. Fee	7.90		 Domestic Insurance up to \$25,000 is included in the fee. International Indemnity is limited. (See Reverse).
	Handling Charge		Return Receipt 1.85	
	Postage	6.05	Restricted Delivery	
	Received by	Rem		
	Customer Must Declare Full Value \$	9.75		
	<input type="checkbox"/> With Postal Insurance <input checked="" type="checkbox"/> Without Postal Insurance			
OFFICIAL USE				
To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	App, 3 (5077-14) Connolly Base Lodge & Hutz P.O. Box 2207 Wilm, DE 19801		
	TO	Brenda Burdy, Pres Medical Skin Therapy Research, Inc 1260 Avenida Chelsea Nist, CA 92081		

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
 May 2004 (7530-02-000-9051) (See Information on Reverse)
 For domestic delivery information, visit our website at www.usps.com®

EXHIBIT B

EXHIBIT B

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Receiver's Name (Print or Type)</p> <p><i>MARIN TIOCCA</i></p>	<p>B. Date of Delivery (Print or Type)</p> <p><i>3/5/07</i></p>
<p>1. Article Addressed to:</p> <p><i>Brenda Purdy, Pres. Medical Skin Therapy 12600 Avenida Chelton Linda, CA 92081</i></p>		<p>Signature of Receiver (Print or Type)</p> <p><i>[Signature]</i></p> <p>Address (Print or Type)</p> <p><i>PO Box 231268 Encinitas, CA 92023</i></p>	
		<p>3. Service Type</p> <p> <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p>	
<p>2. Article Number (Copy from service label)</p> <p><i>RB972 232 2W4 US</i></p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TRISTRATA TECHNOLOGY, INC.)

Plaintiff,)

v.)

LOUISE BIANCO SKIN CARE INC., MEDICAL)
SKIN THERAPY RESEARCH, INC., REVISION)
SKIN CARE, INC. and Z COSMETICA USA,)
INC.)

Defendants.)

Civil Action No. 06-644 (JJF)
Jury Demanded


AFFIDAVIT OF MAILING PURSUANT TO 10 DEL. C. § 3104 AND D. DEL. LR 4.1(b)

ARTHUR G. CONNOLLY, III, after first being duly sworn, on this 2nd day of April, 2007, does depose and say:

1. I am an attorney with the law firm of Connolly Bove Lodge & Hutz LLP and represent plaintiff in the above captioned action.

2. On February 21, 2007, I caused a copy of the Complaint, the Summons for Defendant Medical Skin Therapy Research, Inc., and a letter addressed to Brenda Purdy, President, Medical Skin Therapy Research, Inc., and containing the information required by 10 Del. C. § 3104, to be forwarded, via Registered Mail Return Receipt Requested, to defendant Medical Skin Therapy Research, Inc., pursuant to 10 Del. C. § 3104. The Registered Mail receipt for said package is attached hereto as Exhibit "A".

3. On March 8, 2007, the package referenced in paragraph 2, was received by Medical Skin Therapy Research, Inc. The confirmation/tracking form received from the United States Postal Service is attached hereto as Exhibit "B".


Arthur G. Connolly, III (#2667)

Sworn to and subscribed before me this 2nd day of April, 2007.


NOTARY PUBLIC

530404_1

EXHIBIT A

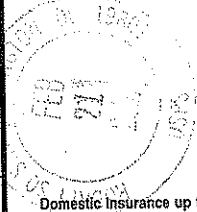
Registered No.		Date Stamp	
RB972 2322104 US			
To Be Completed By Post Office	Reg. Fee	7.90	
	Handling Charge		Return Receipt 1.85
	Postage	6.05	Restricted Delivery
	Received by	Rem	
	Customer Must Declare Full Value \$	9.75	<input type="checkbox"/> With Postal Insurance <input checked="" type="checkbox"/> Without Postal Insurance
Domestic Insurance up to \$25,000 is included in the fee. International indemnity is limited. (See Reverse).			
OFFICIAL USE			
To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	App, 3 (5077#14) Connolly Base Lodge & Hutz P.O. Box 2207 Wilm, DE 19801	
	TO	Brenda Burdy, Pres Medical Skin Therapy Research, Inc 1260 Avenida Chelsea Nist, CA 92081	
PS Form 3806, May 2004 (7530-02-000-9051)		Receipt for Registered Mail Copy 1 - Customer (See Information on Reverse)	
For domestic delivery information, visit our website at www.usps.com ®			

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<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Receiver's Name (Last, first, middle initial) <i>MARINE TROPEA</i></p> <p>B. Date of Delivery (Month/Day/Year) <i>3/5/07</i></p> <p> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee </p> <p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </p>	
<p>1. Article Addressed to:</p> <p><i>Brenda Purdy, Pres. Medical Skin Therapy 12600 Avenida Chelsea Vista, CA 92081</i></p>		<p><i>new address:</i> <i>P.O. Box 2, 31268 CHANDLER, CA 94522</i></p>	
<p>2. Article Number (Copy from service label) <i>RB9712 132 244 US</i></p>		<p>3. Service Type</p> <p> <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	